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U.S. DISTRICT COURT MID. DIST. TENN.

SESSMEN WITH ERCELER	
IN THE UNIT TED STATES FOR THE SYLDDLE DISTRIC	DISTRICT COURT
ROBERT ZENVAS WHIPPLE, III,	
PAGER RAMELLE OLO	500. 1:15-CV-40
Defendants.	
MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION	
I. INTRODUCTION	
A. Statement of the Case This is a civil ciohts action brought under 42	
U.S.C. & 1983 by a state prisoner seeking a declaratory Judgment, injunctive relief, and damages.	
B. Statement of Facts Defendant Ranhelle issued a false disciplinant	
report on March 30, 2015. DE 1, Appendix to Comprint Ra. 4. Plaintiff was found quilty of these Charges on April 14, 2015. DE 1, Complaint 183. The disciplinary board had prejudged his lase, in advance of hearing any evidence. Ital 18 Ly. Plaintiff appealed and Warden Debra Johnson Ceressed the board and dispossed charges and	
April 23, 2015. Exhibit A. TDOC Police of disciplinary reports and findings destroyed upon dismissal. Policy 50	y requires that all opies (except the inmates) be 02.01 (VI) (M) (1) (b) (2).



("It shall then be the Warden's responsibility to ensure that all copies of Disciplinary Forms I except the immate's, are destroyed."). Policy 502. by (VI) (M) (1) (e) (2) (same). On July 15, 2016, Defense Counsel Eric Fuller finally provided Croies of Plaintiff's Inmate Institutional Records ("ITR"), pursuant Plaintiff's Revised First Request for Production of Daluments (Plaintiff is still missing a number of the Couments in that request, therefore his motion to compet is not yet moot). Plaintiffs Declaration in Support of Motion for Preliminary Injunction, P.I., Plaintiff's ITR Contained Copies of the original disciplinary report the Disciplinary Report Heaving Summary Shawing the Disciplinary Report Heaving Summary Shawing the Disciplinary Finding, and miscellineous reshibits Submitted to the Docard. Its, P.2, The ITR did not include Plaintiff's appeal or the wardens dismissal.

IL LAW AND ARGUMENT

A. Standard of Preliminary Relief

Preliminary injunctions are coverned by Rule (5, of the Federal Rules of Civil Procedure and are considered preventative prohibitory or protective measures taken bending resolution on the mevits, see Clemons V. Board of Foly 228 F. 2d 853, 856 (6th Cir. 1956). In determining whether to around the requests for preliminary injunctive relief, the Court must consider to whether the plaintiff has shown a strong or sub-stantial likinood or probability of success on the ments of the Case; (2) wether the plaintiff will suffer imparable injury if the injunction is not granted (3) wether granting the injunction will cause potential barm to others; and (4) the impact of the injunction

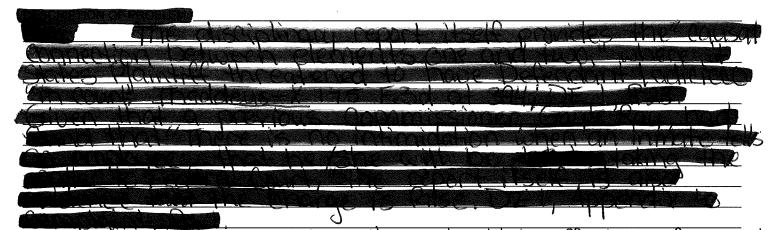


reliminary portional of Suggess icbort issued Q, onison Johnsons decision to ove Plaintiff's allegation



The disciplinary report itself provides the "Caysal
connection between blements one and two "where
it States Plaintitt threatened to have Detendant
Tadiciono" in court. Thaddeus-X 145 F.3d at 394.
DE 1, 723. Given that a previous commissioner gayle
Con inmate tells an employee. That he she will be
taking the matter to Federal Court, the report itself.
is also evidence that the aharge is talse. DEI, Appendix
to complaint Pal.
Maintiff has evidence of each element of a
retaliation claim. Flement One is established by
indicial notice two by the talse disciplinary remaining in the Plaintiff's IIR and hunting his chances of
andle and three hu the wording of the report. Therefore
Plaintiff has a high probability of success on the merits.
J '
C. Imparable Injury
If this relief is not granted it will neaghively
import parale consideration in April 2014 which is
Clearly an irreparable injury. Plaintiff could be forced
Mearly an irreparable injury. Plaintiff could be forced to spend several more spars incarcerated.
D. Potential Harm
D. Potential Harm
In deciding whether to grant preliminary injunctions,
murts ask whether the suffering of the moving party.
if the motion is denied will outwelch the suffering of the non-moving party it aganted. See, e.g., shitchell
of the non-moving party it granted. See, e.g., Illitchell
748 F. 2d at 808.





The the case at bar, the potential suffering of several additional years incorrected alearly outweighs the suffering of Defendants in removing documents from Plaintiffs IIR. Further, the relief sought is nothing more than what TDOC Policy requires anyhow. TDBC Policy 502.01 (VI) (M)(U(b)(2) and (e)(2).

E. Public Interest

The this case the arent of relief will serve the public Decause it is always in the public interest for prison officials to obey the law especially the Constitution. Llewelyn v. Oakland County Prosecutor's office 402 F. Supp. 1349 1393 (E.D. Mich. 1975) (Stating the Constitution is the ultimate expression of the public interest").

F. Administrative Remedies

Plaintiff Cilect an institutional grievance, which is the only administrative remedy for state prisoners, Prison Officials refused to consider the grievance on the merits, ruling that disciplinary matters are inappropriate to the appropriate to the appropriate to the appropriate to realize that the disciplinary matter was resolved previously; Plaintiff's grievance was purely



a obcidal matter of removing the documents from his IIR, in accordance with policy.
III. CONCLUSTON
For the foregoing reasons, Plaintiff prays that this court will argent the motion in all respects, and require any and all references to Disciplinary # 114873 Der removed from his IIR.
Respectfully submitted the 27th day of July 2016
Robert Z Whipple III 399615 BCCX Site 2 IDUS Horsehead Rd Pikeville, TN 37367